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January 31, 2006

## NEPA Draft Report Comments

c/o NEPA Task Force

Committee on Resources

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Dear NEPA Task Force,

The Mountaineers offers these comments on the *Initial Findings and Draft Recommendations* from the National Environmental Policy Act (NEPA) Task Force. The Mountaineers is extremely concerned that the recommendations of the NEPA Task Force would weaken the NEPA in profound and fundamental ways.

The Mountaineers is the third largest conservation and recreation organization in the United States, with more than 11,000 members and seven branches in the State of Washington. The Mountaineers is also North America's largest publisher of outdoor titles. While The Mountaineers members enjoy a wide range of outdoor activities, the organization was founded in 1906 with a strong conservation ethic, which remains deeply embedded in our mission and our members.

Echoing the sentiment of thousands of Americans from Washington to Virginia who have expressed in person and in writing throughout the Task Force hearing process how important the NEPA is to their communities, The Mountaineers knows that this law is integral to maintaining balance and common sense where environmental decision-making is concerned.

The NEPA is the best tool Americans have to learn how federal projects may affect them. It also is the best tool the federal government has to examine proposed projects and obtain public input. By ensuring that the public is informed and that alternatives are considered, the NEPA has stopped some unwise and harmful projects, and *helped improve countless projects*. And even though the report acknowledges that public participation is fundamental to the success of the NEPA, the Task Force has made several recommendations that

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dramatically limit who, when, and how the public can participate in all levels of the NEPA process.

The Mountaineers has a long history of submitting public comments to federal agencies on proposed projects that require an environmental impact statement and public input. NEPA allows us to weigh in on proposed projects such as ski area expansions, timber sales, national park improvements and management policy changes, forest plan revisions, recreational facilities and policies, and many others.

In recent times, many members have been working hard on preserving roadless forests via the Roadless Area Conservation Rule, which was signed by President Clinton in 2001, protecting 58.5 million acres of our roadless forests from road-building. Members were busy testifying at public hearings, and writing many letters in support of the strongest possible rule, thus contributing to the vast public groundswell across the country for protection of our National Forest roadless areas.

The Mountaineers also contributed to the final settlement of the Plum Creek Land Exchange in 1999 and through extensive public input, resulted in the addition of thousands of acres to the Alpine Lakes Wilderness Area on the Mt. Baker-Snoqualmie National Forest near Cle Elum, WA.

Limiting public involvement and our right to challenge harmful projects or reducing adequate review of major projects won't avoid controversy or improve projects. The NEPA saves time and money in the long run by reducing controversy, building consensus, and ensuring that a project is done right the first time. The Mountaineers embraces the NEPA, as it is, for these reasons.

Those whose purported goal is to "streamline" the NEPA process are in fact aiming to gut the one bedrock, fundamental law overriding the government's impact on the environment. Their claim is that the NEPA adds to costly delays. That is hardly the case, as testified by several of the witnesses at the seven public hearings held last year. In most cases, environmental reviews are not the significant time-killer. In fact the biggest culprits are funding shortfalls and local controversy. While it is true that the process of producing an environmental impact statement (EIS) requires time - especially when the project is controversial - the fact is that they slow down only a very small percentage of projects every year. There are fewer and fewer such full-blown reviews. For example, the number filed in 2001 - about 500 - was less than a

quarter of the approximately 2,000 statements filed in 1973. Today, a mere three percent of federally funded transportation projects require an EIS.

In a 2000 study of 89 transportation projects that had been delayed at least five years, the Federal Highway Administration found that environmental impact statements were not the major cause of delay. According to the study, the most significant factors slowing down these projects were lack of funding, local controversy, low priority, and project complexity, which collectively accounted for 62 percent of the delays. The remaining 38 percent of delays were the result of a range of other factors, including environmental concerns. Endangered species and wetlands concerns accounted for only seven percent and four percent of delays, respectively. (Sierra Club, 2005)

Furthermore, more often than not, when proposed projects are stopped through the appeal process or through litigation, it is because the governing agency itself has broken those very laws, rules and parameters under which they are required to operate. Whether it is done deliberately or due to lack of funding for the appropriate expertise and analysis, the fact remains-public participation and oversight under the NEPA is essential to protect the environment while striving to improve projects that would alleviate significant impacts.

We are concerned that the recommendations, 1) add mandatory timelines for the completion of NEPA documentation and only allow for occasional extensions, 2) place significant restrictions on a citizen's ability to participate in the public process and to challenge an agency's decision-making process, and 3) require that "reasonable alternatives," including those proposed by individual citizens or community groups, be supported by "feasibility and engineering studies" would unfairly tip the balance in favor of special interests rather than keeping the playing field even for all parties concerned. Few organizations and even fewer ordinary citizens have the technical or financial resources to prepare such studies. Industry, on the other hand, has ample resources to do so, and would clearly receive favored treatment under this requirement.

At its most basic level the NEPA is about having an informed democracy. The NEPA is also the guarantee that Americans affected by a major federal action will get the best information about its impacts on our community, a choice of good design alternatives to minimize damage, and the right to have our voice heard before the government makes a final decision. The NEPA ensures balance, common sense and openness in federal decision-making; it is an effective tool to keep government in 'check.'

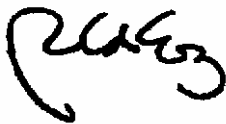
The recommendations to amend the NEPA and embark on drastic regulatory changes that reduce public participation must be rejected. We ask that you listen to the 10 former members of the Council of Environmental Quality who have said that the NEPA does not need any legislative changes. In a letter to NEPA Task Force Chair Cathy McMorris, dated September 19, 2005 they unequivocally state that the NEPA is “our basic national charter for protection of the environment.....We are concerned that certain recent measures and pending proposals fail to reflect, and in some instances may undermine, the basic principles served by NEPA. Measures to exempt certain agencies and programs from NEPA, to restrict or eliminate alternatives analysis, or to limit the public’s right to participate in the NEPA process threaten NEPA’s vital role in promoting responsible government decision-making. We urge you and the other members of the Task Force to support the basic principles of NEPA and reject proposals that would weaken or undermine NEPA.”

Additionally, on October 12, 2005, 162 professors of Administrative, Environmental and Natural Resources Law and Policy sent a letter to the NEPA Task Force saying that they support the NEPA, but advocate stronger administrative rules and the will to make them effective.

However, thoughtful analysis and review of the NEPA have long recognized that there is a need to improve NEPA implementation. Requiring monitoring of project impacts, improving management oversight and providing agency personnel with adequate training and resources, and making mitigation promises mandatory are all good ideas that should be considered and do not require amending the NEPA or its regulations.

The Mountaineers strongly urges the NEPA Task Force to reconsider its recommendations.

Sincerely,



The Mountaineers  
Ron Eng, President

#### Literature Cited

The Sierra Club. 2005. The Road to Better Transportation Projects; Public Involvement and the NEPA Process.

[http://www.sierraclub.org/sprawl/nepa/sprawl\\_report.pdf](http://www.sierraclub.org/sprawl/nepa/sprawl_report.pdf)

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